

How to Apply for German "Kindergeld"

A German attorney explains the process and the pitfalls...

by Joerg Modellmog

When it comes to German "*Kindergeld*" (i.e., child allowance), it is important to understand the two different ways you can file for the allowance and the potential consequences of each method of filing for it.

In Germany, a qualifying person can receive *Kindergeld* either in accordance with the German Federal Child Benefit Act ("*Bundeskindergeldgesetz*" - BKGG) or under the German Income Tax Act ("*Einkommensteuergesetz*" - EStG).

Persons employed on the German economy and subject to limited German taxation are entitled to *Kindergeld* under the BKGG, provided they contribute to the German social security system. If a dependent spouse happens to be German or is a citizen of another EU member country, she/he does not even have to work in order to qualify for *Kindergeld* under the BKGG.

Kindergeld is a very valuable benefit for those who qualify for it. As of January 2009, the German government increased the monthly *Kindergeld* payments to €164 per child for the first two children, €175 for the third child, and €195 for the fourth child. Due to the current economic crisis, a one-time additional payment of €100 per child is also authorized in 2009.

In order to receive *Kindergeld* under the BKGG, you must apply for it through the Family Allowance Register ("*Familienkasse*") of the Employment Office ("*Arbeitsamt*") in Nuernberg. The Family Allowance Register in Nuernberg is the central office for processing all *Kindergeld* claims under the BKGG. [Note: any such application filed with the local employment office in Kaiserslautern will be denied for lack of jurisdiction.]

The necessary application forms can be downloaded (www.arbeitsagentur.de) or obtained from the Inprocessing Office or your local Legal Assistance Office. Generally the following documents are needed: (1) Application Form for *Kindergeld*, (2) SOFA Status Certificate, (3) Composition of Family Form, (4) copies of passports, (5) Certificate of attendance from the children's school (e.g., letter from the principal's office), (6) German Social Security Number (if applicable), (7) Certificate from the employer confirming that the working spouse is subject to limited taxation status only.

Please note that once your employment ends or you or your children leave Germany, you must notify the German agency that pays you *Kindergeld* to stop the payments. Failure to make such notification is punishable under the German Criminal Code and will give rise to claims for repayment of any amounts improperly received.

Finally, it is important to understand that if you or your spouse files a German income tax return, you will no longer qualify for *Kindergeld* under the BKGG. Instead, the German Income Tax Act ("*Einkommensteuergesetz*" - EStG) rules on *Kindergeld* will be applied. If you fall into this category, your application for *Kindergeld* should be filed with the Family Allowance Register of your local Employment Office instead of the office in Nuernberg mentioned above.

The German Income Tax Act provides for either *Kindergeld* or the German Child Tax Credit ("*Kinderfreibetrag*" - KFB). Regrettably, there is currently an issue on whether non-EU citizen spouses can qualify for *Kindergeld* under the German Income Tax Act or are limited to receiving the sometimes less-valuable German Child Tax Credit. The German IRS takes the latter position, but that issue may be revisited by the tax courts in the near future. Should they change the interpretation of the law, we will let our readers know.

For more information in *Kindergeld*, call DSN 483-8848 or Civilian 0631-411-8848 and ask for an appointment with the German Attorney-Advisor.

